

MEMORANDUM ENDORSEMENT

Kuhl v. U.S. Bank Trust National Association et al.,
19 CV 8403 (VB)

In the attached submission, plaintiff, proceeding pro se, requests for the second time that the Court issue an Order to Show Cause why the Court should not direct defendant Rushmore Loan Management Services LLC to release insurance settlement funds to plaintiff. (Doc. #7). Plaintiff states he has served all defendants and has been served in a foreclosure action.

Plaintiff's request is DENIED.

Plaintiff has not shown he would be entitled to a preliminary injunction. In particular, plaintiff fails to show likelihood of success on the merits, or a serious question going to the merits. Red Earth LLC v. United States, 657 F.3d 138, 143 (2d Cir. 2011) (internal quotations omitted).

This case will proceed in the ordinary course. If, indeed, defendants were properly served, they must respond within 21 days of being served. Fed. R. Civ. P. 21(a).

The Clerk is directed to mail a copy of this Order to plaintiff at the address on the docket.

Dated: September 27, 2019
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge

USPC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 9/27/2019

U.S. DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NY (White Plains)

-----X
JONATHAN KUHL

: INDEX: 19-cv-8403-*VL*12

Plaintiff

v.

U.S. BANK TRUST NATIONAL
ASSOCIATION , NOT IN ITS INDIVIDUAL
CAPACITY BUT SOLELY AS OWNER
TRUSTEE FOR LEGACY MORTGAGE
ASSET TRUST 2018GS-1, MTGLQ
INVESTORS, LP and RUSHMORE LOAN
MANAGEMENT SERVICES LLC

: AFFIDAVIT IN
: FURTHER SUPPORT OF
: ORDER TO SHOW
: CAUSE

Defendants

-----X

JONATHAN KUHL states as follows under penalty of perjury:

1. Currently pending before the court is a motion I brought on by Order to Show Cause on September 10, 2018. [Docket 1] On September 18, 2019, the court declined to sign the OSC seeking a hearing [Docket 2] because (a) All of the defendants had not been served with the summons and complaint, and (b) Although I had been served with a *lis pendens* indicating I was the defendant in a foreclosure action, I had not in fact been served with a summons and complaint, and therefore could not demonstrate the likelihood of immediate harm.

2. All defendants have since been served. As follows;

(a) U.S. Bank Trust N.A. both as an individual and as Trustee by service

of two copies on a bank officer designated to accept service in

Minneapolis on September 13, 2019.

(b) Rushmore Loan Management Services LLC its designated agent for

service by service on September 30, 2019. (Rushmore had refused

service and directed the process server to its registered agent).

(c) MTGLQ Investors LP on September 24, 2019 on CT Corporation,

which it has designated as its agent for service in New York.

3. PDF copies of the respective service affidavits which I received as e-mails are attached. When I have the originals they will be filed with the clerk.

4. In turn, I was personally served in a foreclosure action brought by U.S. Bank National Association yesterday. Any delay in service on me was not because of any evasiveness by me as I took no steps to avoid service.

5. The OSC seeks the release of more of the \$151,877 in an insurance claim due to me to rebuild garage and shop at my home which had burned to the ground in February.

6. On April 12, 2019, the insurance company sent the \$151,877 to Rushmore, the loan servicer for U.S. Bank Trust N.A., my apparent mortgage holder which funds were placed in escrow. Rushmore then told me on April 22, 2019 it was sending me one third of the insurance proceeds (\$50,625) but in fact

only sent me \$25,000. It said it would send me an additional one third (or another \$50,625) when the work was 40 percent completed. On July 9, 2019, a Rushmore agent inspected the work in progress and told me he was advising the loan servicer that the work was 50 percent completed.

7. Rushmore representatives offered different excuses as to what it had not sent the balance of the first \$50,625 it agreed it was sending, as well as the second \$50,625 payment due now when the work is 40 percent complete.

8. However, on receipt of this lawsuit, Rushmore sent me another \$12,000 which I received today. This still leaves me \$13,625 short of the initial promised \$50,625 payment and the second \$50,625, altogether \$64,250. With the receipt of these monies, I am confident I can get more workshop up and running, complete outstanding contracts, and bring any mortgage arrears current.

9. I ask that the court now sign the Order to Show cause and schedule a hearing in which this issues of insurance claim payments can be resolved, together with such other and further relief as the court deems just.

10. I swear under penalty of perjury the above statements are true.

Respectfully,



Jonathan Kuhl Dated: September 25, 2019

Copies of Affidavits of
Service on All Defendants

Civil Action No. 19CV8403

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (*name of individual and title, if any*) Rushmore Loan Management Services LLC was received by me on (*date*) 9/20/19.

- I personally served the summons on the individual at (*place*) _____ on (*date*) _____; or
- I left the summons at the individual's residence or usual place of abode with (*name*) _____, a person of suitable age and discretion who resides there, on (*date*) _____, and mailed a copy to the individual's last known address; or
- I served the summons on (*name of individual*) Lai Saevang, who is designated by law to accept service of process on behalf of (*name of organization*) Rushmore Loan Management Services LLC on (*date*) 9/20/19; or
- I returned the summons unexecuted because: _____; or
- Other: _____; or

My fees are \$ _____ for travel and \$ 150.00 for services, for a total of \$150.00

I declare under penalty of perjury that this information is true.

Date: 9/20/10


Katrina Williams

Process Server, Sacramento County Reg.# 2015-10

Printed name and title

901 H St, #110, Sacramento, CA 95814
Server's address

Additional information regarding attempted service, etc.:

The Agent for Service of Rushmore Loan Management Services LLC is CSC Lawyers Incorporating Service at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833. Lai Saevang (A/F/25/Blonde&Brown/5'6"/135) is an employee of CSC Lawyers Incorporating Service, and is authorized to accept service on behalf of Rushmore Loan Management Services LLC.

9/25/2019

ServeManager

Court File # 19cv-8403-VLR

U.S. DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NY (White Plains)

JONATHAN KUHL,

Plaintiff,

vs.

U.S. BANK TRUST NATIONAL : ASSOCIATION , NOT IN ITS INDIVIDUAL
CAPACITY BUT SOLELY AS OWNER : TRUSTEE FOR LEGACY MORTGAGE
ASSET TRUST 2018GS-1, MTGLQ : INVESTORS, LP and RUSHMORE LOAN
MANAGEMENT SERVICES LLC,
Defendant,

AFFIDAVIT OF SERVICE

State of Minnesota)
County of Dakota)SS

I, Andy Lonergan, being over the age of 18 and not a party to this action, hereby certify and return that I served the SUMMONS IN A
CIVIL ACTION; COMPLAINT and, in the above titled action

upon LEGACY MORTGAGE ASSET TRUST 2018GS-1,
at:

US BANK
800 NICOLLET MALL
21ST FLOOR
MINNEAPOLIS, MN 55402
HENNEPIN County Minnesota

on:

September 13, 2019, at 2:30 pm

by handing to and leaving with DAWN EVANS , a MANAGING AGENT who is authorized to accept service a true and correct copy
thereof

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

a oop les

Andy Lonergan
Arden Process Services L.L.C

September 19, 2019

Date

U.S. DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NY (White Plains)

-----x
JONATHAN KUHL

: INDEX: 19-cv-8403

Plaintiff

v.

U.S. BANK TRUST NATIONAL
ASSOCIATION , NOT IN ITS INDIVIDUAL
CAPACITY BUT SOLELY AS OWNER
TRUSTEE FOR LEGACY MORTGAGE
ASSET TRUST 2018GS-1, MTGLQ
INVESTORS, LP and RUSHMORE LOAN
MANAGEMENT SERVICES LLC

: AFFIDAVIT
: OF SERVICE

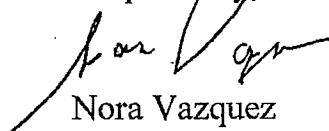
Defendants

-----x

NORA VAZQUEZ being sworn states and deposes as follows:

1. I am over 18 years if age, I am not a party to this action and I reside in New York state.
2. I served the herein summons and complaint on the defendant MTGLQ Investors LP on September 24, 2019 around 1 p.m., by handing a copy to the party at CT Corporation, 28 Liberty St., 42nd Floor who said that firm was agent for service of MTGLQ and she was authorized to accept it.
3. She around 5'8" in height, with light brown hair and appeared to be of Indian extraction.
4. I swear under penalty of perjury that the above statements are true.

Respectfully,



Nora Vazquez

Dated: September 25, 2017

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